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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/646,738

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Yoshifumi Nagai

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WASHINGTON, DC 20006-1021

EXAMINER

PIZIALI, JEFFREY J

ART UNIT

PAPER NUMBER

2629

MAIL DATE

DELIVERY MODE

07/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/646,738

Applicant(s)

NAGAI ET AL.

Examiner

Jeff Piziali

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/14/08, 12/14/07, 8/30/07, 1/22/07, 6/19/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 10/182,828.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of **Species II** (wherein "*Claims 1-11 and 14-20 are readable on the elected species*") in the reply filed on 22 January 2007 is acknowledged.

The traversal is on the ground(s) that, "*regarding the seven species identified by the Examiner, Applicants note that while the specification indicates that there are seven different embodiments, these embodiments do not all include mutually exclusive characteristics of one another, and therefore, do not all correspond to separate species*" (see Page 1 of the Response filed 22 January 2007).

The Applicant has neglected to point out distinct and specific supposed errors in the restriction requirement, and instead has presented a mere broad allegation that the requirement is in error. For example, the Applicant did not identify any embodiments or species which include only common/shared characteristics, with no mutually exclusive characteristics of one another. And no common/shared characteristics were identified.

However, as a courtesy to the Applicant, the examiner hereby withdraws the earlier Restriction Requirement (mailed 22 December 2006).

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2. The restriction requirement among species, as set forth in the Office action mailed on mailed 22 December 2006, has been reconsidered.

The restriction requirement mailed 22 December 2006 is hereby withdrawn.

Claims 12 and 13, directed to nonelected species, are no longer withdrawn from consideration.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

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3. This application contains claims directed to the following patentably distinct species:

Species I, drawn to *the 1st Inventive Embodiment, wherein an image display apparatus is controlled by "composited" pulse driving current amounts* (e.g., See Figure 4; Page 24, Paragraph 64 - Page 25, Paragraph 65 of the Specification).

Species II, drawn to *the 2nd Inventive Embodiment, wherein an image display apparatus is controlled by a number of pulse driving current periods* (e.g., See Figure 7; Page 26, Paragraph 69 - Page 28, Paragraph 71 of the Specification).

Species III, drawn to *the 3rd Inventive Embodiment, wherein an image display apparatus is controlled by period width ratios of reference clock pulses* (e.g., See Figure 8; Page 28, Paragraph 72 - Page 30, Paragraph 75 of the Specification).

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Each species is drawn to a mutually exclusive pulse driving technique and method.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. *Currently, no claims appear to be generic.*

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There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Priority

5. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10/182,818, filed on 2 August 2002.

Drawings

6. The drawings have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the figures.

Specification

7. The disclosure is objected to because of the following informalities:

The Amendment filed 14 December 2007 improperly deletes the sentence, "***This is a Divisional Application of U.S. Application No. 10/182,828, filed August 2, 2002, which is the National Stage of International Application No. PCT/JP01/00807, filed February 2, 2001***" (see Page 2 of the Preliminary Amendment filed 25 August 2003) from the specification without using markings to show the deletion, as required by C.F.R. § 1.121 and § 1.125.

Appropriate correction is required.

8. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Response to Arguments

9. Applicant's arguments filed 14 April 2008 have been fully considered but they are not persuasive.

The Applicant contends the Substitute Specification filed 14 December 2007 is compliant under C.F.R. § 1.121(b)(3) and C.F.R. § 1.125(c) (see Page 2 of the Response filed 14 April 2008). However, the examiner respectfully disagrees.

The Amendment filed 14 December 2007 improperly removes text from the specification without using markings to show the changes relative to the immediate prior version of the specification of record (e.g., see at least Page 1, after the title of the invention, of the Amendment filed 14 December 2007).

In particular, the Amendment filed 14 December 2007 improperly deletes the sentence, ***"This is a Divisional Application of U.S. Application No. 10/182,828, filed August 2, 2002, which is the National Stage of International Application No. PCT/JP01/00807, filed February 2, 2001"*** (see Page 2 of the Preliminary Amendment filed 25 August 2003) from the specification without using markings to show the deletion.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Piziali whose telephone number is (571) 272-7678. The examiner can normally be reached on Monday - Friday (6:30AM - 3PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on (571) 272-7681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeff Piziali/
Primary Examiner, Art Unit 2629
2 July 2008